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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 09/831,778 | 05/14/2001 | Brian Joseph Roselle | 7349 | 9723 |

27752 7590 02/19/2003
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| EXAMINER |
| PRATT, HELEN F |

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| ART UNIT | PAPER NUMBER |
| 1761 | |

DATE MAILED: 02/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/831,778

Applicant(s)

ROSELLE ET AL.

Examiner

Helen F. Pratt

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 13 is indefinite in the use of the phrase "significantly reduce the level of microorganisms less than one minute". It is not known what is considered to be a significant reduction of the level of microorganisms. Also, the phrase should probably have an "in" after microorganisms". Claim 30 is indefinite in the use of the phrase "impure water". It is not known how impure the water is to be.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13-30

Claims ~~1330~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Murch et al. 5,549,758 in view of Chang 4,808,330.

Murch et al. disclose a cleaning composition for fruits and vegetables containing a surfactant, a buffer to greater than 8.5 and potassium cations (col. 3, lines 1-8, 10-13, and 16-18). Claim 13 differs from the reference in the use of cation with a molarity of 0.04, and in the composition being able to reduce microorganisms in less than one

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minute, and in the composition being free of materials that affect its safety and palatability so that it does not have to be rinsed. However, as the composition has been shown above, nothing is seen that microorganisms would not have been reduced significantly in less than one minute. The reference also discloses that the composition is safe even if not completely rinsed off (col. 4, lines 25-300). Claim 13 differs from the reference in the use of cations in particular amounts (molarity). However, the reference does use cations as in the buffer, potassium hydrogen citrate and in the use of alkali or alkaline earth salts (col. 3, lines 48-55). Also, cations are found in the use of sodium or potassium salts of benzoic acid (col. 10, lines 15-20). Also, Chung discloses that it is known to use cation containing compounds such a sodium chloride to reduce bacteria on food surfaces (col. 8, lines 26-31). Therefore, it would have been obvious to use cations in the composition of Murch to make a bacteria reducing composition.

Claim 14 further requires that the surfactant is a base-stable anionic detergent surfactant. The reference discloses an alkali or alkaline earth salt of dodecylbenzene sulfonate as found in the specification on page 7, lines 5-9). Potassium carbonate is disclosed as in step 14 (b), col. 3, lines 25-30, the molarity has been discussed above. An aqueous carrier is disclosed which could be water (col. 3, lines 20-25). The other ingredients are optional. Therefore, it would have been obvious to use known ingredients in the composition of the combined references to make the claimed composition.

The amounts and the viscosity of the solutions as in claims 14 -27 are seen as within the skill of the ordinary worker to vary as the function of each ingredient is known

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and used for its known function. Therefore, it would have been obvious to use particular amounts and viscosities in the combined references to make the claimed composition.

Claim 28 requires only GRAS ingredients. Only such are seen in the composition of the references. Therefore, it would have been obvious to use GRAS items in the claimed composition.

Claim 29 requires a suds suppressor and claim 30 the use of impure water. The specification discloses that certain suds suppressors are known (page 13, lines 5-9). It is not known how impure the claimed water would be. Certainly, it would be only as impure as tap water. As the composition of the reference has been shown, it would reduce microbes, on the food and in water as the composition has been shown. Therefore, it would have been obvious to use known suds suppressors and impure water.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 703-308-1978. The examiner can normally be reached on Monday, Wednesday and Friday from 9:30 to 6:00 and Tues and Thurs. from 4:30 to 10 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano, can be reached on (703) 3959. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1193. HP 2-10--3

H. Pratt
HELEN PRATT
PRIMARY EXAMINER